

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
EVANSVILLE DIVISION

U.S. SPECIALTY INSURANCE COMPANY, )  
Plaintiff, )  
vs. ) 3:12-cv-00130-JMS-WGH  
Board of Commissioners of the County )  
of Daviess, Wabash Levee Unit No. 8 )  
Committee, Prairie Creek Conservancy )  
District, and William J. Robinson, )  
Defendants. )

**ORDER**

Plaintiff U.S. Specialty Insurance Company (“U.S. Specialty”) filed its Complaint on August 29, 2012 against the Board of Commissioners of the County of Daviess (“Board”), Wabash Levee Unit No. 8 Committee (“Wabash Levee”), Prairie Creek Conservancy District (“Prairie Creek”), and William J. Robinson. [Dkt. 1.] U.S. Specialty alleges that this Court has diversity jurisdiction. [*Id.* at 4, ¶ 15.] Specifically, it alleges that: (1) it is a Texas corporation with its principal place of business in Texas, [*id.* at 2, ¶ 8]; (2) the Board is an Indiana municipal corporation with its principal place of business in Indiana, [*id.* at 3, ¶ 10]; (3) Wabash Levee is an Indiana public entity with its principal place of business in Indiana, [*id.* at 3, ¶ 11]; (4) Prairie Creek is an Indiana public entity with its principal place of business in Indiana, [*id.* at 3, ¶ 12]; and (5) Mr. Robinson is “an individual residing in Knox County, Indiana,” [*id.* at 3, ¶ 13.] U.S. Specialty has further alleged that the amount in controversy exceeds \$75,000, exclusive of interest and costs. [*Id.* at 4, ¶ 15.]

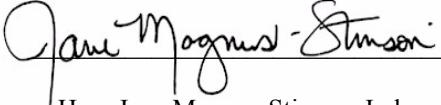
The Court must independently determine whether proper diversity among the parties exists. *Thomas v. Guardsmark, LLC*, 487 F.3d 531, 533 (7th Cir. 2007). The Court is not being hyper-technical: Counsel has a professional obligation to analyze subject matter jurisdiction,

*Heinen v. Northrop Grumman Corp.*, 671 F.3d 669 (7th Cir. 2012), and a federal court always has a responsibility to ensure that it has jurisdiction, *Hukic v. Aurora Loan Servs.*, 588 F.3d 420, 427 (7th Cir. 2009). Because the Complaint does not set forth any allegations regarding Mr. Robinson's *citizenship*, the Court cannot determine whether it can exercise diversity jurisdiction over this case.

Specifically, U.S. Specialty is reminded that: (1) an allegation of residency is not enough to establish diversity jurisdiction, *McMahon v. Bunn-O-Matic Corp.*, 150 F.3d 651, 653 (7th Cir. 1998); (2) residency and citizenship are not the same, *Meyerson v. Harrah's East Chicago Casino*, 299 F.3d 616, 617 (7th Cir. 2002), and it is the citizenship that matters for purposes of diversity, *id.*; (3) jurisdictional allegations must be made on personal knowledge, not on information and belief, to invoke the subject matter jurisdiction of a federal court, *America's Best Inns, Inc. v. Best Inns of Abilene, L.P.*, 980 F.2d 1072, 1074 (7th Cir. 1992); and (4) it is insufficient for a party to generically allege that another party is *not* a citizen of a state, *Guaranty Nat'l Title Co. v. J.E.G. Assocs.*, 101 F.3d 57, 59 (7th Cir. 1996).

The Court **ORDERS** that U.S. Specialty conduct whatever investigation is necessary regarding Mr. Robinson's citizenship and, if appropriate, file an Amended Complaint which addresses the Court's jurisdictional concerns by **October 1, 2012**. In the meantime, Defendants' obligation to answer the Complaint, [dkt. 1], is stayed pending filing of the amended complaint and the Board's First Motion for Extension of Time, [dkt. 15], which appears in any event to be a duplicate of its Notice of Initial Extension of Time, [dkt 13], is **DENIED AS MOOT**.

09/12/2012

  
Hon. Jane Magnus-Stinson, Judge  
United States District Court  
Southern District of Indiana

**Distribution via ECF only:**

James McGinnis Boyers  
WOODEN & MCLAUGHLIN LLP  
jboyers@woodmclaw.com

Dale W. Eikenberry  
WOODEN & MCLAUGHLIN LLP  
deikenberry@woodmclaw.com

Kip S.M. McDonald  
WOODEN & MCLAUGHLIN LLP  
kmcdonald@woodmclaw.com

David V. Miller  
ZIEMER STAYMAN WEITZEL & SHOULDERS  
dmiller@zsbs.com

Bruce A. Smith  
BRUCE A. SMITH, ATTORNEY AT LAW  
brucea.smith@sbcglobal.net